

IN THE COURT OF APPEALS OF TENNESSEE
AT JACKSON
January 18, 2012 Session

IN RE: ANGELA T., EKENE T., and EMBER T.

**Direct Appeal from the Chancery Court for Madison County
No. 56951 William C. Cole, Chancellor by Designation**

No. W2011-01588-COA-R3-PT - Filed February 23, 2012

CONCURRING IN PART AND PARTIAL DISSENT

HOLLY M. KIRBY, JUDGE, CONCURRING IN PART AND PARTIAL DISSENT:

I concur fully in the majority's finding that Father abandoned his children by willful failure to visit them. I must reluctantly dissent from the majority's finding that Father's child support payments during the pivotal four-month period amounted to abandonment by willful failure to support. The trial court viewed Father's testimony and considered his payment history during the four-month period, and found no willful intent to abandon. While Father clearly had the means to pay his full child support obligation, in view of the trial court's finding and the evidence on his payments, I must respectfully disagree that the record shows by clear and convincing evidence abandonment by failure to support.

Therefore, I concur in part and dissent in part.

HOLLY M. KIRBY, JUDGE